

Stephen M. Rummage, *pro hac vice*
 Jonathan M. Lloyd, *pro hac vice*
 Sam N. Dawood (Cal. Bar No. 178862)
 DAVIS WRIGHT TREMAINE LLP
 505 Montgomery Street, Suite 800
 San Francisco, California 94111-6533
 Telephone: (415) 276-6500
 Facsimile: (415) 276-6599
 Email: steverummage@dwt.com
 samdawood@dwt.com
 jonathanlloyd@dwt.com

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Attorneys for the Federal Deposit Insurance Corporation,
 as Receiver for Defendant Washington Mutual Bank

IN THE UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA
 SAN JOSE

FELTON A. SPEARS, JR. and SIDNEY)
 SCHOLL, on behalf of themselves and all others)
 similarly situated,)

Case No. 5:08-cv-00868 (RMW)

CLASS ACTION

Plaintiffs,

v.

STIPULATION AND ~~PROPOSED~~
ORDER TO SUBSTITUTE THE
FEDERAL DEPOSIT INSURANCE
CORPORATION, AS RECEIVER FOR
WASHINGTON MUTUAL BANK, AS
REAL PARTY IN INTEREST

WASHINGTON MUTUAL, INC., a Washington)
 corporation; WASHINGTON MUTUAL BANK,)
 FA (aka WASHINGTON MUTUAL BANK);)
 FIRST AMERICAN EAPPRAISEIT, a Delaware)
 corporation; and LENDER'S SERVICE, INC.,)
 Defendants.)

This stipulation is entered into by and among the Federal Deposit Insurance Corporation
 ("FDIC"), as the duly appointed Receiver for defendant Washington Mutual Bank ("WMB"),
 defendant First American eAppraiseIT ("EA"), defendant Lender's Services, Inc. ("LSI") and
 plaintiffs Sidney Scholl and Felton A. Spears, Jr. ("Plaintiffs"), as follows:

1 WHEREAS, on September 25, 2008, the Office of Thrift Supervision ("OTS") closed
2 WMB;

3 WHEREAS, pursuant to Section 1821(c) of the Federal Deposit Insurance Act (the "Act"),
4 12 U.S.C. § 1821(c), the OTS duly appointed the FDIC as Receiver for WMB;

5 WHEREAS, under Section 1821(d)(2) of the Act, as Receiver, the FDIC succeeds to "all
6 rights, titles, powers, and privileges" of WMB, and may "take over the assets of and operate"
7 WMB with all the powers thereof, including the resolution of outstanding claims against the
8 institution in receivership;

9 WHEREAS, the FDIC, as Receiver for WMB, has stepped into WMB's shoes for the
10 purposes of this litigation and is the real party in interest;

11 WHEREAS, pursuant to Federal Rule of Civil Procedure 25(c), where the interests of a
12 litigant have been transferred to another entity, "the court ... [may] order[] the transferee to be
13 substituted in the action"; and

14 WHEREAS, none of Plaintiffs, EA and LSI have any objection to the substitution of the
15 FDIC, as Receiver for WMB, as the real party in interest;

16 **NOW, THEREFORE, IT IS HEREBY STIPULATED** by the parties, through their
17 respective counsel of record, that the FDIC, as Receiver, shall be substituted for WMB as the real
18 party in interest, and that the case shall be re-captioned to reflect that substitution.
19

20 DAVIS WRIGHT TREMAINE LLP

21
22 Dated: November 3, 2008

By /s/ Jonathan M. Lloyd
Stephen M. Rummage, Pro Hac Vice
Jonathan M. Lloyd, Pro Hac Vice
1201 Third Avenue, Suite 2200
Seattle, WA 98101
Tel: (206) 622-3150
Fax: (206) 757-7700
steверummage@dwt.com
jonathanlloyd@dwt.com

27 Attorneys for the Federal Deposit Insurance
28 Corporation, as Receiver for Washington Mutual Bank

DAVIS WRIGHT TREMAINE LLP

SPECTER, SPECTER EVANS & MANOGUE, P.C.

Dated: November 3, 2008

By /s/ Joseph N. Kravec, Jr.

Joseph N. Kravec, Jr.
The 26th Floor, Koppers Bldg.
436 Seventh Ave.
Pittsburg, PA 15219
Tel: (412) 642-2300
Fax: (412) 642-2309
jnk@ssem.com

Attorneys for Plaintiffs

MCDONOUGH HOLLAND & ALLEN PC

Dated: November 3, 2008

By /s/ Michael T. Fogarty

Michael T. Fogarty, SBN 65809
555 Capitol Mall, 9th Floor
Sacramento, CA 95814
Tel: (916) 444-3900
Fax: (916) 444-3249
tfogarty@mhalaw.com

Attorneys for First American eAppraiseIT

DEWEY & LEBOEUF LLP

Dated: November 3, 2008

By /s/ Margaret A. Keane

Margaret Anne Keane, SBN 255378
One Embarcadero Center, Suite 400
San Francisco, CA 94111
Tel: (415) 951-1137
Fax: (415) 438-1137
mkeane@dl.com

Attorneys for Lender's Services, Inc.

[PROPOSED] ORDER

This matter having come before the Court by stipulation of the Parties, and the Court being fully advised in the premises,

IT IS HEREBY ORDERED THAT the Federal Deposit Insurance Corporation, as Receiver, shall be and hereby is substituted for Washington Mutual Bank as the real party in interest, and that this case be re-captioned to reflect that substitution.

Dated: 11/18/08

Ronald M. Whyte

Honorable Ronald M. Whyte
United States District Court Judge

DAVIS WRIGHT TREMAINE LLP

CERTIFICATE OF SERVICE

I hereby certify that on November 3, 2008, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

Robert Ira Spiro - Ira@SpiroMoss.com
 Janet Lindner Spielberg - jlsplberg@jlsplp.com
 Joseph N. Kravec, Jr. - jnk@ssem.com
 Michael David Braun - service@braunlawgroup.com
 James Mark Moore - mark@spiromoss.com
 Jeffrey D. Rotenberg - jrotenberg@tpw.com
 Laura Jean Fowler - lfowler@mhalaw.com
 Patrick J. Smith - psmith@tpw.com
 Richard F. Hans - rhans@tpw.com
 Michael T. Fogarty - tfogarty@mhalaw.com
 Christopher J Clark - cjclark@dl.com
 Kevin C Wallace - kwallace@dl.com
 Kris Hue Chau Man - kman@dl.com
 Margaret Anne Keane - mkeane@dl.com
 Angela M. Papalaskaris - apapalas@dl.com

and I hereby certify that I have mailed by United States Postal Service the document to the following non CM/ECF participants:

Kerry Ford Cunningham
 THACHER PROFFITT & WOOD LLP
 Two World Financial Center
 New York, NY 10281

DATED this 3rd day of November, 2008.

Davis Wright Tremaine LLP
 Attorneys for the Federal Deposit Insurance
 Corporation, as Receiver for Washington Mutual
 Bank

By /s/ Jonathan M. Lloyd
 Jonathan M. Lloyd, *pro hac vice*
 WSBA #37413
 1201 Third Avenue, Suite 2200
 Seattle, Washington 98101-3045
 Telephone: (206) 622-3150
 Fax: (206) 757-7700
 E-mail: jonathanlloyd@dwt.com